

MUTUAL LEGAL ASSISTANCE

**Instrument Between the
UNITED STATES OF AMERICA
and DENMARK**

Signed at Copenhagen June 23, 2005

with

Annex



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

DENMARK

Mutual Legal Assistance

Instrument signed at Copenhagen June 23, 2005;
Transmitted by the President of the United States of America
to the Senate September 28, 2006 (Treaty Doc. 109-13,
109th Congress, 2d Session);
Reported favorably by the Senate Committee on Foreign Relations
July 29, 2008 (Senate Executive Report No. 110-13,
110th Congress, 2d Session);
Advice and consent to ratification by the Senate
September 23, 2008;
Ratified by the President December 11, 2008;
Exchange of Instruments of Ratification at Copenhagen
September 1, 2009;
Entered into force February 1, 2010.
With annex.

**Instrument between the Kingdom of Denmark and the United States of America,
as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the
United States of America and the European Union signed 25 June 2003**

1. As contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003 (hereafter "the U.S.-EU Mutual Legal Assistance Agreement"), the Governments of the Kingdom of Denmark and the United States of America acknowledge that, in accordance with the provisions of this Instrument, the U.S.-EU Mutual Legal Assistance Agreement is applied between them under the following terms:

- (a) Article 4 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 1 of the Annex to this Instrument shall govern the identification of financial accounts and transactions;
- (b) Article 5 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 2 of the Annex to this Instrument shall govern the formation and activities of joint investigative teams;
- (c) Article 6 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 3 of the Annex to this Instrument shall govern the taking of testimony of a person located in the requested State by use of video transmission technology between the requesting and requested States;
- (d) Article 7 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 4 of the Annex to this Instrument shall govern the use of expedited means of communication;
- (e) Article 8 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 5 of the Annex to this Instrument shall govern the providing of mutual legal assistance to the administrative authorities concerned;
- (f) Article 9 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 6 of the Annex to this Instrument shall govern the limitation on use of information or evidence provided to the requesting State, and the conditioning or refusal of assistance on data protection grounds;
- (g) Article 10 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 7 of the Annex to this Instrument shall govern the circumstances under which a requesting State may seek the confidentiality of its request;
- (h) Article 13 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 8 of the Annex to this Instrument shall govern the invocation by the requested State of grounds for refusal.

2. The Annex reflects the provisions of the U.S.-EU Mutual Legal Assistance Agreement that shall apply between the United States of America and the Kingdom of Denmark upon entry into force of this Instrument.

3. This Instrument and its Annex shall not apply to Greenland and the Faroe Islands unless the United States of America and the European Union, by exchange of diplomatic notes, duly confirmed by the Kingdom of Denmark in accordance with Article 16(1)(b) of the U.S.-EU Mutual Legal Assistance Agreement, agree otherwise.

4. In accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall apply to offenses committed before as well as after it enters into force.

5. This Instrument shall apply to requests made after its entry into force; nevertheless, Articles 3 and 4 of the Annex shall in accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, be applicable to requests pending in the requested State at the time this Instrument enters into force.

6. (a) This Instrument shall be subject to completion by the United States of America and the Kingdom of Denmark of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Kingdom of Denmark shall thereupon exchange instruments indicating that such measures have been completed. This Instrument shall enter into force on the date of entry into force of the U.S.-EU Mutual Legal Assistance Agreement.

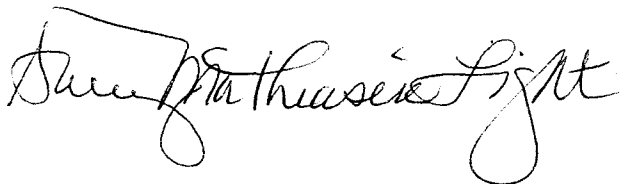
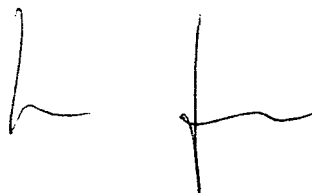
(b) In the event of termination of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall be terminated. The Governments of the United States of America and the Kingdom of Denmark nevertheless may agree to continue to apply some or all of the provisions of this Instrument.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Instrument.

DONE at Copenhagen, in duplicate, this Thursday of 23 June 2005, in the English and Danish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
KINGDOM OF DENMARK:

ANNEX

Article 1 Identification of bank information

- 1 (a) Upon request of the requesting State, the requested State shall, in accordance with the terms of this Article, promptly ascertain if the banks located in its territory possess information on whether an identified natural or legal person suspected of or charged with a criminal offense is the holder of a bank account or accounts. The requested State shall promptly communicate the results of its enquiries to the requesting State.
- (b) The actions described in subparagraph (a) may also be taken for the purpose of identifying:
 - (i) information regarding natural or legal persons convicted of or otherwise involved in a criminal offense;
 - (ii) information in the possession of non-bank financial institutions; or
 - (iii) financial transactions unrelated to accounts.
2. A request for information described in paragraph 1 of this Article shall include:
 - (a) the identity of the natural or legal person relevant to locating such accounts or transactions;
 - (b) sufficient information to enable the competent authority of the requested State to:
 - (i) reasonably suspect that the natural or legal person concerned has engaged in a criminal offense and that banks or non-bank financial institutions in the territory of the requested State may have the information requested; and
 - (ii) conclude that the information sought relates to the criminal investigation or proceeding; and
 - (c) to the extent possible, information concerning which bank or non-bank financial institution may be involved, and other information the availability of which may aid in reducing the breadth of the enquiry.
3. Unless subsequently modified by exchange of diplomatic notes between the European Union and the United States of America, requests for assistance under this Article shall be transmitted between:
 - (a) The Danish Ministry of Justice, and
 - (b) for the United States of America, the attaché responsible for Denmark of the:
 - (i) U.S. Department of Justice, Drug Enforcement Administration, with respect to matters within its jurisdiction;

(ii) U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, with respect to matters within its jurisdiction;

(iii) U.S. Department of Justice, Federal Bureau of Investigation, with respect to all other matters.

4. The Kingdom of Denmark shall provide assistance under this Article with respect to offenses punishable by a penalty involving deprivation of liberty or a detention order of a maximum period of at least four years in the requesting State and at least two years in the requested State. The United States of America shall provide assistance under this Article with respect to money laundering and terrorist activity punishable under the laws of both the requesting and requested States, and such other criminal activity as to which the United States of America may notify the Kingdom of Denmark.
5. Assistance may not be refused under this Article on grounds of bank secrecy.
6. The requested State shall respond to a request for production of the records concerning the accounts or transactions identified pursuant to this Article in accordance with the requirements of its domestic law.

Article 2

Joint investigative teams

1. Joint investigative teams may be established and operated in the respective territories of the United States of America and the Kingdom of Denmark for the purpose of facilitating criminal investigations or prosecutions involving the United States of America and one or more Member States of the European Union where deemed appropriate by the United States of America and the Kingdom of Denmark.
2. The procedures under which the team is to operate, such as its composition, duration, location, organization, functions, purpose, and terms of participation of team members of a State in investigative activities taking place in another State's territory shall be as agreed between the competent authorities responsible for the investigation or prosecution of criminal offenses, as determined by the respective States concerned.
3. The competent authorities determined by the respective States concerned shall communicate directly for the purposes of the establishment and operation of such team except that where the exceptional complexity, broad scope, or other circumstances involved are deemed to require more central coordination as to some or all aspects, the States may agree upon other appropriate channels of communications to that end.
4. Where the joint investigative team needs investigative measures to be taken in one of the States setting up the team, a member of the team of that State may request its own competent authorities to take those measures without the other States having to submit a request for mutual legal assistance. The required legal standard for obtaining the measure in that State shall be the standard applicable to its domestic investigative activities.

Article 3

Video conferencing

1. The use of video transmission technology shall be available between the United States of America and the Kingdom of Denmark for taking testimony in a proceeding for which mutual legal assistance is available of a witness or expert located in the requested State. To the extent not specifically set forth in this Article, the modalities governing such procedure shall be as otherwise provided under the law of the requested State.
2. Unless otherwise agreed by the requesting and requested States, the requesting State shall bear the costs associated with establishing and servicing the video transmission. Other costs arising in the course of providing assistance (including costs associated with travel of participants in the requested State) shall be borne as agreed upon by the requesting and requested States.
3. The requesting and requested States may consult in order to facilitate resolution of legal, technical or logistical issues that may arise in the execution of the request.
4. Without prejudice to any jurisdiction under the law of the requesting State, making an intentionally false statement or other misconduct of the witness or expert during the course of the video conference shall be punishable in the requested State in the same manner as if it had been committed in the course of its domestic proceedings.
5. This Article is without prejudice to the use of other means for obtaining of testimony in the requested State available under applicable treaty or law.
6. The requested State may permit the use of video conferencing technology for purposes other than those described in paragraph 1 of this Article, including for purposes of identification of persons or objects, or taking of investigative statements.

Article 4

Expedited transmission of requests

Requests for mutual legal assistance, and communications related thereto, may be made by expedited means of communications, including fax or e-mail, with formal confirmation to follow where required by the requested State. The requested State may respond to the request by any such expedited means of communication.

Article 5

Mutual legal assistance to administrative authorities

1. Mutual legal assistance shall also be afforded to a national administrative authority, investigating conduct with a view to a criminal prosecution of the conduct, or referral of the conduct to criminal investigation or prosecution authorities, pursuant to its specific administrative or regulatory authority to undertake such investigation. Mutual legal

assistance may also be afforded to other administrative authorities under such circumstances. Assistance shall not be available for matters in which the administrative authority anticipates that no prosecution or referral, as applicable, will take place.

2. Requests for assistance under this article shall be transmitted between the United States Department of Justice and the Danish Ministry of Justice, or between such other authorities as may be agreed by the Department of Justice and Ministry of Justice.

Article 6

Limitations on use to protect personal and other data

1. The requesting State may use any evidence or information obtained from the requested State:
 - (a) for the purpose of its criminal investigations and proceedings;
 - (b) for preventing an immediate and serious threat to its public security;
 - (c) in its non-criminal judicial or administrative proceedings directly related to investigations or proceedings:
 - (i) set forth in subparagraph (a); or
 - (ii) for which mutual legal assistance was rendered under Article 5 of this Annex;
 - (d) for any other purpose, if the information or evidence has been made public within the framework of proceedings for which they were transmitted, or in any of the situations described in subparagraphs (a), (b) and (c); and
 - (e) for any other purpose, only with the prior consent of the requested State.
- 2 (a) This Article shall not prejudice the ability of the requested State to impose additional conditions in a particular case where the particular request for assistance could not be complied with in the absence of such conditions. Where additional conditions have been imposed in accordance with this subparagraph, the requested State may require the requesting State to give information on the use made of the evidence or information.
- (b) Generic restrictions with respect to the legal standards of the requesting State for processing personal data may not be imposed by the requested State as a condition under subparagraph (a) to providing evidence or information.
3. Where, following disclosure to the requesting State, the requested State becomes aware of circumstances that may cause it to seek an additional condition in a particular case, the requested State may consult with the requesting State to determine the extent to which the evidence and information can be protected.

Article 7

Requesting State's request for confidentiality

The requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the requesting State. If the request cannot be executed without breaching the requested confidentiality, the Department or Ministry of Justice of the requested

State shall so inform the requesting State, which shall then determine whether the request should nevertheless be executed.

Article 8

Refusal of assistance

Subject to Article 1(5) and 6(2)(b) of this Annex, the provisions of this Annex are without prejudice to the invocation by the requested State of grounds for refusal of assistance available pursuant to its applicable legal principles, including where execution of the request would prejudice its sovereignty, security, ordre public or other essential interests.

**Instrument mellem Amerikas Forenede Stater og Kongeriget Danmark
som forudsat i artikel 3, stk. 3, i Aftalen om Gensidig Retshjælp mellem Amerikas Forenede
Stater og Den Europæiske Union undertegnet den 25. juni 2003**

1. Som forudsat i artikel 3, stk. 3, i aftalen om gensidig retshjælp mellem Amerikas Forenede Stater og Den Europæiske Union undertegnet den 25. juni 2003 (i det følgende kaldt "USA-EU-retshjælpsaftalen"), anerkender Amerikas Forenede Staters og Kongeriget Danmarks regeringer, at - i overensstemmelse med bestemmelserne i dette instrument - gælder USA-EU-retshjælpsaftalen mellem dem på følgende betingelser:

- a) Artikel 4 i USA-EU-retshjælpsaftalen som fastsat i artikel 1 i bilaget til dette instrument regulerer identificering af finansielle konti og transaktioner.
- b) Artikel 5 i USA-EU-retshjælpsaftalen som fastsat i artikel 2 i bilaget til dette instrument regulerer oprettelse af fælles efterforskningshold og disses aktiviteter.
- c) Artikel 6 i USA-EU-retshjælpsaftalen som fastsat i artikel 3 i bilaget til dette instrument regulerer optagelse af vidneforklaring fra en person, der befinder sig i den anmodede stat, ved brug af videotransmissionsteknologi mellem den anmodende stat og den anmodede stat.
- d) Artikel 7 i USA-EU-retshjælpsaftalen som fastsat i Artikel 4 i bilaget til dette instrument regulerer anvendelse af hurtige kommunikationsmidler.
- e) Artikel 8 i USA-EU-retshjælpsaftalen som fastsat i artikel 5 i bilaget til dette instrument regulerer gensidig retshjælp til de berørte administrative myndigheder.
- f) Artikel 9 i USA-EU-retshjælpsaftalen som fastsat i artikel 6 i bilaget til dette instrument regulerer begrænsningen af brug af oplysninger og bevismateriale leveret til den anmodende stat samt betingelserne for eller afvisning af at yde retshjælp ud fra databeskyttelsesmæssige hensyn.
- g) Artikel 10 i USA-EU-retshjælpsaftalen som fastsat i artikel 7 i bilaget til dette instrument regulerer de omstændigheder, under hvilke en anmodende stat kan begære, at dens anmodning behandles fortroligt.
- h) Artikel 13 i USA-EU-retshjælpsaftalen som fastsat i artikel 8 i bilaget til dette instrument regulerer den anmodede stats påberåbelse af grunde for afslag.

2. Bilaget afspejler bestemmelserne i USA-EU-retshjælpsaftalen, som skal gælde mellem Amerikas Forenede Stater og Kongeriget Danmark ved dette instruments ikrafttræden.

3. Dette instrument og dets bilag gælder ikke for Grønland og Færøerne, medmindre Amerikas Forenede Stater og Den Europæiske Union, ved udveksling af diplomatiske noter, behørigt bekræftet af Kongeriget Danmark i overensstemmelse med artikel 16, stk. 1, litra b, i USA-EU-retshjælpsaftalen, træffer anden bestemmelse.

4. I overensstemmelse med artikel 12 i USA-EU-retshjælpsaftalen, gælder dette instrument for lovovertrædelser, der er begået før såvel som efter aftalens ikrafttræden.

5. Dette instrument gælder for anmodninger fremsat efter dets ikrafttræden; ikke desto mindre finder artikel 3 og 4 i bilaget i overensstemmelse med artikel 12 i USA-EU-retshjælpsaftalen anvendelse på anmodninger, der er under behandling i den anmodede stat på tidspunktet for instrumentets ikrafttræden.

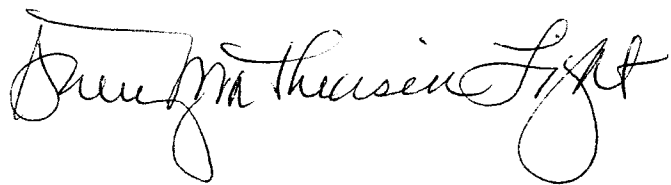
6. a) Dette instrument er med forbehold af Amerikas Forenede Staters og Kongeriget Danmarks afslutning af deres respektive gældende interne procedurer for ikrafttræden. Myndighederne i Amerikas Forenede Stater og Kongeriget Danmark skal derefter udveksle instrumenter med angivelse af, at sådanne foranstaltninger er færdiggjort. Dette instrument træder i kraft på datoen for USA-EU-retshjælpsaftalens ikrafttræden.

b) I tilfælde af opsigelse af USA-EU-retshjælpsaftalen, opsiges dette instrument. Amerikas Forenede Staters og Kongeriget Danmarks regeringer kan ikke desto mindre aftale at fortsætte anvendelsen af nogle eller alle bestemmelserne i dette instrument.

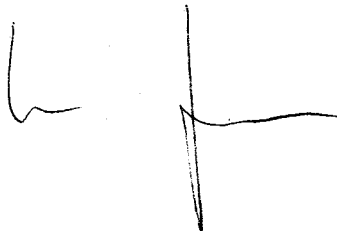
TIL BEKRÆFTELSE heraf har undertegnede, der er behørigt befuldmægtiget af deres respektive regeringer, underskrevet dette instrument.

UDFÆRDIGET i København i to eksemplarer den 23. juni 2005 på engelsk og dansk, idet hver af disse tekster har samme gyldighed.

FOR AMERIKAS FORENEDE STATER



FOR KONGERIGET DANMARK



BILAG

Artikel 1 Identificering af bankoplysninger

1. a) På anmodning af den anmodende stat undersøger den anmodede stat i overensstemmelse med denne artikel straks, om bankerne på dens område er i besiddelse af oplysninger om, hvorvidt en identificeret fysisk eller juridisk person, der er mistænkt eller tiltalt for en lovovertrædelse, er indehaver af en bankkonto eller bankkonti. Den anmodede stat meddeler straks resultatet af sine undersøgelser til den anmodende stat.
- b) De foranstaltninger, der er beskrevet i litra a), kan ligeledes træffes for at identificere:
 - i) oplysninger vedrørende fysiske eller juridiske personer, der er dømt for eller på anden måde er indblandet i lovovertrædelser,
 - ii) oplysninger, som andre finansieringsinstitutter end banker er i besiddelse af, eller
 - iii) finansielle transaktioner, som ikke vedrører konti.
2. En anmodning om oplysninger som omhandlet i stk. 1 skal omfatte:
 - a) oplysninger om den fysiske eller juridiske persons identitet, for så vidt disse er relevante for at kunne finde frem til sådanne konti eller transaktioner
 - b) tilstrækkelige oplysninger til, at den kompetente myndighed i den anmodede stat kan:
 - i) nære begrundet formodning om, at den pågældende fysiske eller juridiske person har været involveret i en lovovertrædelse, og at banker eller andre finansieringsinstitutter på den anmodede stats område kan være i besiddelse af de ønskede oplysninger, og
 - ii) fastslå, at de ønskede oplysninger vedrører den pågældende strafferetlige efterforskning eller straffesag
 - c) i den udstrækning det er muligt, oplysninger om, hvilken bank eller andet finansieringsinstitut der kan være involveret, samt andre oplysninger, som vil kunne medvirke til at begrænse undersøgelsens omfang.
3. Medmindre der sker ændring ved udveksling af diplomatisk note mellem Den Europæiske Union og Amerikas Forenede Stater skal anmodninger om retshjælp i henhold til denne artikel fremsendes mellem:
 - a) Det danske justitsministerium
 - b) For Amerikas Forenede Stater, den ansvarlige attaché for Danmark fra:
 - i) U.S. Department of Justice, Drug Enforcement Administration, med hensyn til forhold inden for dettes jurisdiktion,
 - ii) U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, med hensyn til forhold inden for dettes jurisdiktion,

iii) U.S. Department of Justice, Federal Bureau of Investigation, med hensyn til alle andre forhold.

4. Kongeriget Danmark yder retshjælp i medfør af denne artikel med hensyn til lovovertrædelser, der kan straffes med frihedsstraf eller anden frihedsberøvende foranstaltning af en maksimal varighed på mindst fire år i den anmodende stat og mindst to år i den anmodede stat. Amerikas Forenede Stater yder retshjælp i medfør af denne artikel med hensyn til hvidvaskning af penge og terroristaktiviteter, der er strafbare i henhold til både den anmodede stat og den anmodende stats lovgivning, samt andre former for kriminalitet, som Amerikas Forenede Stater giver meddelelse om til Kongeriget Danmark.
5. Retshjælp kan ikke afslås i henhold til denne artikel under henvisning til bankhemmeligheden.
6. Den anmodede stat besvarer en anmodning om fremlæggelse af oversigter over de konti eller transaktioner, der er blevet identificeret i henhold til denne artikel, i overensstemmelse med kravene i dens nationale lovgivning.

Artikel 2

Fælles efterforskningshold

1. Der kan oprettes og indsættes fælles efterforskningshold på de respektive områder i Amerikas Forenede Stater og Kongeriget Danmark med henblik på at gøre det nemmere at foretage strafferetlig efterforskning eller retsforfølgning, som involverer både Amerikas Forenede Stater og en eller flere medlemsstater i Den Europæiske Union, i det omfang det anses for relevant af Amerikas Forenede Stater og Kongeriget Danmark.
2. Procedurene for sådanne efterforskningsholds indsats, f.eks. holdets sammensætning, opgavens varighed, hvor holdet indsættes, holdets struktur, opgaver og formål samt de nærmere betingelser for en stats holdmedlemmers deltagelse i efterforskningsaktiviteter på en anden stats område, aftales mellem vedkommende staters kompetente myndigheder med ansvar for efterforskning eller retsforfølgning af lovovertrædelser som defineret af de respektive berørte stater.
3. Disse kompetente myndigheder som defineret af de berørte stater kommunikerer direkte med hinanden med henblik på et sådant holds oprettelse og indsats, medmindre staterne måtte blive enige om andre hensigtsmæssige kommunikationskanaler, hvis der kræves en mere central koordinering af nogle eller alle aspekter på grund af sagens usædvanlige kompleksitet, store rækkevidde eller andre forhold.
4. Hvis et fælles efterforskningshold finder det nødvendigt at træffe efterforskningsmæssige foranstaltninger i en af de stater, der har oprettet holdet, kan et holdmedlem fra den pågældende stat anmode sin stats kompetente myndigheder om at træffe disse foranstaltninger, uden at de øvrige stater behøver at fremsætte en anmodning om gensidig retshjælp. Den retsnorm, der kræves, for at foranstaltningen træffes i den pågældende stat, skal være den samme som den, der gælder for statens egne indenlandske efterforskningsaktiviteter.

Artikel 3

Videokonferencer

1. Der skal kunne anvendes videotransmissionsteknologi mellem Amerikas Forenede Stater og Kongeriget Danmark til optagelse af vidneforklaring i en sag, hvor der kan ydes gensidig retshjælp vedrørende vidner eller sagkyndige, der befinder sig i den anmodede stat. I det omfang der ikke er fastsat specifikke bestemmelser herom i denne artikel, skal de nærmere bestemmelser for denne procedure fastsættes i henhold til den i øvrigt gældende lovgivning i den anmodede stat.
2. Medmindre den anmodende og den anmodede stat træffer anden afgørelse, afholder den anmodende stat udgifterne i forbindelse med etablering og servicering af videotransmissionen. Andre udgifter i forbindelse med ydelse af retshjælp (herunder rejseudgifter for deltagere i den anmodede stat) afholdes som aftalt mellem den anmodende og den anmodede stat.
3. Den anmodende og den anmodede stat kan konsultere hinanden for at gøre det nemmere at finde løsninger på retlige, tekniske og logistiske problemer, som måtte opstå i forbindelse med udførelsen af anmodningen.
4. Uden at dette berører nogen kompetence i henhold til den anmodende stats lovgivning, vil vidnets eller den sagkyndiges afgivelse af bevidst falsk vidneforklaring eller anden form for foragt for retten under videokonferencen kunne straffes i den anmodede stat på samme måde, som hvis det var forekommet under en sags behandling i denne stat.
5. Denne artikel udelukker ikke anvendelse af andre midler til at optage vidneforklaring i den anmodede stat i henhold til en gældende traktat eller gældende lovgivning.
6. Den anmodede stat kan give tilladelse til brug af videotransmissionsteknologi til andre formål end dem, der er omhandlet i stk. 1, herunder til identificering af personer eller genstande eller efterforskningsafhøringer.

Artikel 4

Fremskyndet fremsendelse af anmodninger

Anmodninger om gensidig retshjælp og meddelelser i forbindelse hermed kan fremsendes ved hjælp af hurtige kommunikationsmidler, bl.a. telefax eller e-post, der skal efterfølges af en formel bekræftelse, hvis den anmodede stat ønsker det. Den anmodede stat kan besvare anmodningen med samme hurtige kommunikationsmidler.

Artikel 5

Gensidig retshjælp til administrative myndigheder

1. Der ydes ligeledes gensidig retshjælp til en national administrativ myndighed, der efterforsker adfærd med henblik på at strafforfølge denne adfærd eller overdrage sagen til efterforsknings- eller retsforfølgningsmyndigheden i medfør af sin specifikke administrative eller forvaltningsmæssige myndighed til at foretage en sådan efterforskning. Endvidere kan der ydes gensidig retshjælp til andre administrative myndigheder under tilsvarende omstændigheder. Gensidig retshjælp ydes ikke, hvis den administrative myndighed på forhånd skønner, at sagen ikke vil blive strafforfulgt eller overdraget til retsforfølgning.
2. Anmodninger om retshjælp som omhandlet i denne artikel fremsendes mellem Amerikas Forenede Staters justitsministerium og det danske justitsministerium eller mellem andre myndigheder, som de to staters justitsministerier måtte aftale.

Artikel 6

Begrænsninger af hensyn til beskyttelsen af personoplysninger og andre oplysninger

1. Den anmodende stat må anvende alt bevismateriale og alle oplysninger, som den modtager fra den anmodede stat:
 - a) med henblik på strafferetlig efterforskning og retsforfølgning
 - b) for at afværge en umiddelbar og alvorlig trussel mod dens offentlige sikkerhed
 - c) i forbindelse med ikke-strafferetlige sager eller administrative sager, der har direkte forbindelse til strafferetlig efterforskning eller retsforfølgning:
 - i) som omhandlet i litra a), eller
 - ii) hvor der er ydet gensidig retshjælp efter artikel 5 i dette bilag
 - d) til alle andre formål, hvis oplysningerne eller beviserne er blevet gjort offentligt tilgængelige som led i den retsforfølgning, i forbindelse med hvilken de blev fremsendt, eller i en af de situationer, der er beskrevet i litra a), b) og c), og
 - e) til alle andre formål udelukkende efter forudgående samtykke fra den anmodede stat.
2. a) Denne artikel berører ikke den anmodede stats mulighed for at stille yderligere betingelser i en specifik sag, hvis den specifikke anmodning om retshjælp ikke kan imødekommes, medmindre der stilles sådanne betingelser. Hvis der stilles sådanne yderligere betingelser i overensstemmelse med dette litra, kan den anmodede stat anmode den anmodende stat om at oplyse, hvortil bevismaterialet og oplysningerne er blevet anvendt.
- b) Generiske begrænsninger for så vidt angår retsnormerne i den anmodende stat med hensyn til behandling af personoplysninger må ikke af den anmodede stat gøres til en betingelse for fremlæggelse af bevismateriale eller oplysninger som omhandlet i litra a).
3. Hvis den anmodede stat efter videregivelsen til den anmodende stat får kendskab til forhold, der kunne begrunde, at der stilles yderligere betingelser i en bestemt sag, kan den anmodede

stat tage kontakt med den anmodende stat for at aftale, i hvilket omfang bevismateriale og oplysninger kan beskyttes.

Artikel 7

Den anmodende stats anmodning om fortrolighed

Den anmodede stat bestræber sig mest muligt på at behandle en anmodning og dens indhold fortroligt, hvis dette begæres af den anmodende stat. Hvis anmodningen ikke kan udføres uden at krænke den ønskede fortrolighed, underretter justitsministeriet i den anmodede stat den anmodende stat herom, hvorefter denne afgør, om anmodningen alligevel ønskes udført.

Artikel 8

Afvisning af retshjælp

Med forbehold af artikel 1, stk. 5, og artikel 6, stk. 2, litra b, i dette bilag, forhindrer bestemmelserne i dette bilag ikke, at den anmodede stat kan påberåbe sig grunde til afslag i medfør af dens gældende retsprincipper, herunder hvis udførelsen af anmodningen ville kunne skade statens suverænitet, sikkerhed, grundlæggende retsprincipper (ordre public) eller andre væsentlige interesser.